

01/29/2018

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

JULIA C. DUDLEY, CLERK  
BY: *H. Wheeler*  
DEPUTY CLERK

CYNTHIA B. SCOTT, *ET AL.*,

*Plaintiffs,*

v.

HAROLD W. CLARKE, *ET AL.*,

*Defendants.*

CASE NO. 3:12-cv-00036

ORDER

JUDGE NORMAN K. MOON

This case is currently set for a one-week “bench trial/oral argument” in June 2018. (Dkt. 292). The parties appeared before the Court on January 29, 2018, for a status conference on the issue of how proceedings will move forward on Plaintiffs’ motion for a show cause order. Specifically, Plaintiffs inquired whether the Court intends to rule on their motion in advance of the hearing date, or alternatively hear that issue and the evidence regarding any ultimate determination of contempt all together.

As the Court understands Plaintiffs’ concern, the issue is pertinent to the order of presentations at the trial and the content of those presentations. The governing decree in this case is complex. Plaintiffs’ evidence filed in support of its show cause motion is voluminous, consisting of, *e.g.*, numerous declarations, compliance performance charts, and reports from the decree’s compliance monitor. Defendants have submitted their own substantial filing. And the Court may have questions for live witnesses, such as the compliance monitor or members of the class. Given these dynamics, the Court finds it best to have the parties present their evidence during the June proceeding. Plaintiffs—as the party with both a *prima facie* burden and ultimate burden of proof—will proceed first. The Court can make a finding regarding the *prima facie* threshold during the June proceeding and then have before it a full record on which to make an ultimate contempt determination, if necessary.

It is so **ORDERED**.

Entered this 29<sup>th</sup> day of January, 2018.

  
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NORMAN K. MOON  
SENIOR UNITED STATES DISTRICT JUDGE